GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:1865
ANSWERED ON:13.03.2007
LOOPHOLES IN INDIAN INTELLECTUAL PROPERTY RIGHTS LEGISLATIONS
Khandelwal Shri Vijay Kumar

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether foreign companies are reaping benefits from our traditional knowledge due to the loopholes in Indian Intellectual Property Rights Legislations;

(b) is so, whether the Government proposes to amend the law in this regard; and

(c) if so, the details thereof ?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI ASHWANI KUMAR)

(a)to(c) : The Patents Act, 1970, as amended in 2005, provides vide Section 3(p) that an invention which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components is not patentable.

Section 10 of the Patents Act, 1970, inter alia, provides for disclosure of the source and geographical origin of the biological material in the specification, when used in an invention.

Further, the Act also provides for opposition to the grant of patent on the ground that the invention so far as claimed in any claim of the complete specification is anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere and for revocation of a granted patent. In view of the above, there is no proposal presently under consideration of the Government to amend the Patents Act.